

HONORABLE RONALD B. LEIGHTON

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

UNITED STATES OF AMERICA,

Plaintiff,

v.

DARRELL L. STEELE,

Defendant.

Case No. CR94-271-001 RBL

ORDER

THIS MATTER comes on before the above-entitled Court upon Defendant's "Notice of Plain Error and Motion to Review Under Whichever Rule or Statute Court Deems Proper."

Having considered the entirety of the records and file herein, the Court finds and rules as follows:

The defendant was originally sentenced on November 1, 1994 to 264 months in custody. He now seeks to be re-sentenced based upon the recent Supreme Court decision in *Booker v. United States*, 125 S. Ct. 738 (2005). However, the relief defendant seeks is not available because *Booker* does not apply retroactively to cases whose judgments were final (i.e., those cases where all direct appeals were exhausted) prior to January 12, 2005. *McReynolds v. United States*, 397 F.3d 479 (7th Cir.), cert. denied, 125 S. Ct. 2559 (2005); *Varela v. United States*, 400 F.3d 864 (11th Cir. 2005)(per curiam); *Humphress v. United States*, 398 F.3d 855 (6th Cir. 2005); and *Guzman v. United States*, 404 F.3d 139 (2d Cir. 2005). Therefore it is hereby

ORDERED that defendant's notice/motion [Dkt. #41] is **DENIED**.

The Clerk shall send uncertified copies of this order to all counsel of record, and to any party appearing pro se.

Dated this 5th day of July, 2005.


RONALD B. LEIGHTON
UNITED STATES DISTRICT JUDGE